

Attachment A

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

FILED

NOV 15 2019

KEVIN C. MOSS

Your full name

U.S. DISTRICT COURT
FEDERAL CIVIL RIGHTS
COMPLAINT
(BIVENS ACTION)

v.

Civil Action No.: 1:19cv 209
(To be assigned by the Clerk of Court)

TONY MOORE / USP HAZELTON

Kleeh
Aloi
Williams

Enter above the full name of defendant(s) in this action

I. JURISDICTION

This is a civil action brought pursuant to **Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403 U.S. 388 (1971)**. The Court has jurisdiction over this action pursuant to Title 28 U.S.C. §§ 1331 and 2201.

II. PARTIES

In Item A below, place your full name, inmate number, place of detention, and complete mailing address in the space provided.

A. Name of Plaintiff: KEVIN MOSS Inmate No.: 11392-058
Address: P.O. Box 3000 Pine Knot Ky. 42635

In Item B below, place the full name of each defendant, his or her official position, place of employment, and address in the space provided.

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B. Name of Defendant: TONY MOORE
Position: Food Service Officer
Place of Employment: USP Hazelton
Address: P.O. Box 2000 Brunston Mills, WV 26525

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☒ Yes ☐ No

If your answer is "YES," briefly explain: Food Service Officer
at USP Hazelton.

B.1 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

B.2 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

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If your answer is "YES," briefly explain: _____

B.3 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

B.4 Name of Defendant: _____
Position: _____
Place of Employment: _____
Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

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B.5 Name of Defendant: _____
 Position: _____
 Place of Employment: _____
 Address: _____

Was this Defendant acting under the authority or color of federal state law at the time these claims occurred? ☐ Yes ☐ No

If your answer is "YES," briefly explain: _____

III. PLACE OF PRESENT CONFINEMENT

Name of Prison/ Institution: USP McCREARY

A. Is this where the events concerning your complaint took place?
☐ Yes ☒ No

If you answered "NO," where did the events occur?

USP HAZELTON

B. Is there a prisoner grievance procedure in the institution where the events occurred? ☒ Yes ☐ No

C. Did you file a grievance concerning the facts relating to this complaint in the prisoner grievance procedure?
☐ Yes ☒ No

D. If your answer is "NO," explain why not: BECAUSE I WAS PLACED IN SPECIAL HOUSING AND TRANSFERRED WITHIN A WEEK AFTER THE ASSAULT. I FILED MY GRIEVANCE PROCEDURE AS SOON AS I GOT HERE TO USP McCREARY.

E. If your answer is "YES," identify the administrative grievance procedure number(s) in which the claims raised in this complaint were addressed

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and state the result at level one, level two, and level three. **ATTACH GRIEVANCES AND RESPONSES:**

LEVEL 1 BP-8

LEVEL 2 BP-9

LEVEL 3 BP-10

IV. **PREVIOUS LAWSUITS AND ADMINISTRATIVE REMEDIES**

A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action? ☐ Yes ☒ No

B. If your answer is "YES", describe each lawsuit in the space below. If there is more than one lawsuit, describe additional lawsuits using the same format on a separate piece of paper which you should attach and label: "IV PREVIOUS LAWSUITS"

1. Parties to this previous lawsuit:

Plaintiff(s): _____

Defendant(s): _____

2. Court: _____
(If federal court, name the district; if state court, name the county)

3. Case Number: _____

4. Basic Claim Made/Issues Raised: _____

5. Name of Judge(s) to whom case was assigned: _____

6. Disposition: _____
(For example, was the case dismissed? Appealed? Pending?)

7. Approximate date of filing lawsuit: _____

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8. Approximate date of disposition. Attach Copies: _____

C. Did you seek informal or formal relief from the appropriate administrative officials regarding the acts complained of in Part B?

☐ Yes ☐ No

D. If your answer is "YES," briefly describe how relief was sought and the result. If your answer is "NO," explain why administrative relief was not sought.

E. Did you exhaust available administrative remedies?

☐ Yes ☐ No

F. If your answer is "YES," briefly explain the steps taken and attach proof of exhaustion. If your answer is "NO," briefly explain why administrative remedies were not exhausted.

G. If you are requesting to proceed in this action *in forma pauperis* under 28 U.S.C. § 1915, list each civil action or appeal you filed in any court of the United States while you were incarcerated or detained in any facility that was dismissed as frivolous, malicious, or for failure to state a claim upon which relief may be granted. Describe each civil action or appeal. If there is more than one civil action or appeal, describe the additional civil actions or appeals using the same format on a separate sheet of paper which you should attach and label "G. PREVIOUSLY DISMISSED ACTIONS OR APPEALS"

1. Parties to previous lawsuit:

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Plaintiff(s): _____

Defendant(s): _____

2. Name and location of court and case number:

3. Grounds for dismissal: ☐ frivolous ☐ malicious
☐ failure to state a claim upon which relief may be granted

4. Approximate date of filing lawsuit: _____

5. Approximate date of disposition: _____

V. STATEMENT OF CLAIM

State here, as **BRIEFLY** as possible, the facts of your case. Describe what each defendant did to violate your constitutional rights. **You must include allegations of specific wrongful conduct as to EACH and EVERY defendant in the complaint.** Include also the names of other persons involved, dates, and places. Do not give any legal arguments or cite any cases or statutes. If you intend to allege a number of related claims, you must number and set forth each claim in a separate paragraph. **UNRELATED CLAIMS MUST BE RAISED IN SEPARATE COMPLAINTS WITH ADDITIONAL FILING FEES. NO MORE THAN FIVE (5) TYPED OR TEN (10) NEATLY PRINTED PAGES MAY BE ATTACHED TO THIS COMPLAINT. (LR PL 3.4.4)**

CLAIM 1: While serving A nurse in the (QM - OFFICER-MESS HALL) F/S officer "Tony Moore" walked up behind me and punched me as hard as he could in the kidney. Then told me I would piss blood tonight. The force of the blow made me URINATE ON MY SELF and later caused my "ENLARGED PROSTATE"!!

Supporting Facts: THE NURSE (MS. TURBI) WROTE A MEMO ABOUT THE

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incident. I was seen by Medical and placed in lock-up. I was transferred on a Administrative transfer. I was placed on medication for my injuries. The (OIC) "Office of Inspector General" came and talked with me... about the assault.

CLAIM 2: Although the incident took place in front of a "Health Service Staff member" (Ms. Turbi), I wasn't seen for a day or 2 later. I walked around in pain until notified later.

Supporting Facts: Mr. Friend then, the "Medical Administrator" saw me days later at Main-Line and stated he'd been looking for me. He picked up the phone in the Hall-way, made a call and sent me to Medical. "Food Service Officer Hall" was also present when the assault happened and may have written a memo.

CLAIM 3: _____

Supporting Facts: _____

CLAIM 4: _____

Supporting Facts: _____

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CLAIM 5: _____

Supporting Facts: _____

VI. INJURY

Describe **BRIEFLY and SPECIFICALLY** how you have been injured and the exact nature of your damages.

my kidney hurt for almost a year. for months I had problems urinating because of a enlarged prostate with lower urinary tract symptoms. Headaches from fear and stress. Problems sleeping for over a year. my mental health was a issue and it was raised to a higher care level. I'm plagued with anxiety and fear still to this day from the assault.

VII. RELIEF

State **BRIEFLY and EXACTLY** what you want the Court to do for you. *Make no legal arguments. Cite no cases or statutes.*

MAKE THE OFFICER SEEK COUNSELING. I would like to be awarded \$200,000.00 for monetary payment for pain and suffering. Another 100,000.00 for future damages.

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DECLARATION UNDER PENALTY OF PERJURY

The undersigned declares under penalty of perjury that he/she is the plaintiff in the above action, that he/she has read the above complaint and that the information contained in the complaint is true and accurate. Title 28 U.S.C. § 1746; 18 U.S.C. § 1621.

Executed at USP McCleary on 11-3-2019.
(Location) (Date)

Kulvin Moss
Your Signature

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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA

Kevin Moss

Your full name

v.

Civil Action No.: 1:19cv 209

Tony Moore/USP Hazelton

Enter above the full name of defendant(s) in this action

Certificate of Service

I, Kevin Moss (your name here), appearing *pro se*, hereby certify that I have served the foregoing Civil Action (title of document being sent) upon the defendant(s) by depositing true copies of the same in the United States mail, postage prepaid, upon the following counsel of record for the defendant(s) on 11-3-2019 (insert date here):

(List name and address of counsel for defendant(s))

Kevin Moss
(sign your name)